

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MDL No. 3076
CASE NO. 1:23-md-03076-KMM**

IN RE:

FTX Cryptocurrency Exchange Collapse Litigation

THIS DOCUMENT RELATES TO ALL ACTIONS

**[PROPOSED] ORDER ON
(1) DEFENDANT SAM BANKMAN-FRIED'S MOTION TO STAY, [ECF NO. 241], (2)
THE GOVERNMENT'S APPLICATION TO INTERVENE AND MOTION TO STAY,
[ECF NO. 247], AND (3) MDL CO-LEAD COUNSELS' RESPONSE TO GOVERNMENT'S
MOTION TO STAY, AND CROSS-MOTION TO STAY PENDING COMPLETION OF
DEFENDANT'S CRIMINAL TRIAL [ECF NO. ____]**

This CAUSE came before the Court: (1) Defendant Sam Bankman-Fried's Motion to Stay (ECF No. 241); (2) The Government's Application to Intervene and Motion to Stay and Memorandum in Support (ECF No. 247); and (3) MDL Co-Lead Counsel's Response to Government's Motion to Stay, and Cross-Motion to Stay Pending Completion of Defendant's Criminal Trial (ECF No. ____) (collectively, the "Motions to Stay").

The Court has reviewed the Motions to Stay and hereby **ORDERS AND ADJUDGES** that the Motions to Stay are **GRANTED** as follows:

1. The Government's request to intervene is **GRANTED**.
2. The Court hereby **STAYS** these MDL proceedings pending completion of the criminal trial of Defendant Sam Bankman-Fried, scheduled to start October 3rd, 2023, in the Southern District of New York (Case No. 22-cr-00673) (the "New York Criminal Proceedings"). *See Stockwell v. Hamilton*, 15-11609, 2016 WL 3438108, at *5 (E.D. Mich. June 23, 2016) (when the Government moved to intervene and sought "only to renew a previously issued 'temporary and

limited stay of certain discovery,” district found it “more appropriate to stay the civil proceedings until the criminal action is resolved through either a plea or trial,” explaining that “[t]he interests furthered by the stay will be undermined” without a full stay of the civil proceedings).

3. Section 362(a)(1) of the Bankruptcy Code operates as a stay with respect to subpoenas to debtors in their capacity as a party-defendant. However, section 362(a)(1) does not bar litigants from serving a subpoena on a debtor in his capacity as a non-party witness. *See Groner v. Miller (In re Miller)*, 262 B.R. 499, 507 (B.A.P. 9th Cir. 2001) (holding that the automatic stay of section 362(a)(1) does not apply to subpoenas issued on a debtor if the subpoena was issued in furtherance of discovery relating to claims against non-debtors that were not stayed, even if the information to be elicited from the debtor may later be used against the debtor). Accordingly, the Court **GRANTS** Plaintiffs relief from the stay of these MDL proceedings to permit Plaintiffs to issue non-party subpoenas on FTX Trading Ltd. and its related chapter 11 debtor affiliates, seeking the responsive materials.

4. Any of the parties to this MDL are free to petition the Court to lift or modify the stay should there be a change in circumstances warranting such action.

5. Co-Lead Counsel shall file an update in this case on conclusion of the trial against Defendant Sam Bankman-Fried in the New York Criminal Proceedings, be it through entry of a plea, entry of a verdict, or declaration of a mistrial.

DONE AND ORDERED in Miami, Florida this _____ day of September, 2023.

HONORABLE K. MICHAEL MOORE
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel of record